

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:08CR221
)	
vs.)	ORDER
)	
GONZALO GAONA-LOZANO,)	
)	
Defendant.)	

This matter is before the court on the government's motion for joinder (Filing No. 35 - Part 2), the objection to joinder by defendant Gonzalo-Gaona-Lozano (Gaona-Lozano) (Filing No. 40), and the government's abandonment of its motion for joinder and request to exclude time (Filing No. 44).

Since the government has abandoned its motion for joinder, the motion for joinder (Filing No. 35 - Part 2) and Gaona-Lozano's objection (Filing No. 40) are denied as moot.

The government's request for an order *nunc pro tunc* regarding an exclusion under the Speedy Trial Act is well taken and will be granted. The **time between September 18, 2008** (the extended motion deadline) **and October 30, 2008** (the date of Gaona-Lozano's motion to file motions out of time) will be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason defendant's counsel required additional time to adequately prepare the case, taking into consideration due diligence of counsel, and the novelty and complexity of this case. The failure to grant the additional time may have resulted in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

IT IS SO ORDERED.

DATED this 2nd day of December, 2008.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge